

Affirmation of Jason Habinsky

Exhibit

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Habinsky, Jason

From: Habinsky, Jason
Sent: Monday, February 25, 2008 5:02 PM
To: Neilan, Linda
Cc: Raisner, Jack; Hayes, Vilia B.; Bassen, Ned H.
Subject: Fei v. WestLB

Linda,

With respect to Requests No. 3 and 4 in Plaintiff's First Set of Requests for Production of Documents, Electronically-Stored Information and Things, we continue to object to the requests as currently formulated. We have asked you on several occasions to serve more limited requests and you have refused to do so. In an effort to resolve the matter, we make the following proposal.

We will search for and produce non-privileged documents which refer to the classification of Executives or Managers, or any individual Executive or Manager, as exempt or non-exempt during the three year period prior to the filing of the complaint. We will redact individual names. Since this is a function done by the Human Resources Department we will limit the search to the Human Resources Department.

With respect to electronic discovery, you should know that WestLB has emails on its system going back to August 2005. For the approximate period from 2004 to August 2005, emails are stored on tape media and it would be very expensive to restore those tapes. There are no emails prior to 2004. We would therefore propose to limit the search for emails to emails which are on-line and can be searched without restoring tapes. We will commence a search once we have reached agreement on the parameters of a search.

With respect to Defendant's answers to Interrogatories on the Counterclaims, WestLB stands on its answers.

5/20/2008

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From: Neilan, Linda [mailto:lan@outtengolden.com]
Sent: Friday, February 22, 2008 4:45 PM
To: Hayes, Vilia B.
Cc: Bassen, Ned H.; Raisner, Jack; Quinlan, Tara Lai
Subject: Meet and Confer on February 22

Vilia,

I am writing to follow up on our meet and confer yesterday.

As agreed, West LB will produce documents next week in response to Plaintiff's First Document Request and Plaintiff's First Document Request on Counterclaims. Please let us know on what date next week West LB will make this production.

As for Document Requests #s 3 and 4, you said that you would review the requests and see if there is something that West LB will produce aside from "WestLB's corporate policy governing classification of employees" (which you will produce next week). You agreed to get back to us by Monday. We look forward to getting your response on Monday. This would obviate the need for us to raise this issue with the Court. I am sure you understand our desire to resolve this issue as we have been meeting and conferring on it for weeks now. If West LB does not agree to produce documents responsive to Document Request 3 and 4 (apart from "WestLB's corporate policy governing classification of employees"), we will seek the Court's assistance in resolving this impasse.

We are still waiting for West LB to supplement its responses to Interrogatories #s 2, 3, 5, 6, and 7. As we explained in our meet and confer on February 6, 2008, our letter dated February 8, 2008, and our meet and confer on February 19, Defendant's responses were either nonresponsive or incomplete. Please supplement Defendant's responses by Monday. Thank you.

Regarding Mr. Fei's deposition, he is available on April 7. Please let us know if that date works for you. Thanks.

Linda

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